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West Virginia

Governor's message

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24 State FIRST

ANNUAL MESSAGE

OF

GOV. JOHN J. JACOB,

OF

✓
WEST VIRGINIA.



CHARLESTON: 4
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1872.

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ANNUAL MESSAGE.

STATE OF WEST VIRGINIA,

EXECUTIVE DEPARTMENT,

CHARLESTON, January 16, 1872.

Gentlemen of the Senate

and House of Delegates:

You assemble under auspicious circumstances. The ratification by the people of the amendment to the Constitution of the State, which was submitted to them by an act of the last Legislature, has had the effect of removing the political disabilities of a large class of citizens. This result, so long desired, has been followed by the happiest consequences. Citizens heretofore excluded from the ballot box have patriotically come forward to take their legitimate places in the management of public affairs. All citizens have learned to prize more highly, and to guard more tenderly, the elective franchise. The bitterness of the past has been buried out of sight, and heart-burnings have, in a large measure, given way to fraternal regard. Good order and a cheerful obedience to the laws have been marked characteristics of society during the past year. It is no idle boast to say that nowhere in the Union is there greater protection to life and property, and a larger liberty of opinion, than in West Virginia. Notwithstanding the fact that since the last Legislature assembled three elections have been held, in all of which questions touching important changes in our organic law were involved, yet they were all in a remarkable degree free from that acrimony and discord, not unusual under similar circumstances. Elected as you were by unfettered votes, I most cordially welcome you to the seat of government, as the free choice of a free people.

A convention has been called by the people to alter or amend the Constitution of the State. It meets to day in this city. It is the earnest wish of all good citizens that all that is excellent in the present Constitution may be retained, and that whatever it contains that is unwise and not in harmony with our cherished notions as a people, may pass away.

The President of the United States, in his recent message, recommended relief from the disabilities imposed by the Fourteenth Amendment to the Constitution of the United States, and it is to be hoped that Congress will promptly respond to his recommendation, without marring its action by any exceptions whatever. I trust, hereafter, though divided in political opinions as we may be, yet that all will stand united in the one common sentiment to promote the common weal.

The suit long pending in the Supreme Court of the United States, between the Commonwealth of Virginia and the State of West Virginia, in which Virginia was attempting to assert a claim to and jurisdiction over, the counties of Berkeley and Jefferson, has been decided in favor of West Virginia; and thus this vexed question has been brought to a satisfactory conclusion. The people of the State have learned with pleasure that these two beautiful counties remain a part of our territory, and the intelligent and prosperous citizens of those counties will, I doubt not, contribute their full sympathy and aid to the general welfare of the State.

The Reports of the Auditor and Treasurer, which will be communicated to you, make a full exhibit of the financial condition of the State. It will appear

That there was a balance remaining in the Treasury, October 1, 1870, of.....	\$213,420 07
Amount received during the year	573,588 19
Total	\$787,008 26

This is accounted for as follows :

Disbursed for general State purposes	\$377,101 98
Disbursed for General School Fund.....	247,531 04
Disbursed for School Fund.....	33,697 48
Total	\$658,330 50
Leaving a balance in the Treasury, October 1, 1871, of.....	\$128,677 6
But the amount due the two school funds, October 1, 1871, was.....	\$185,168 40
Deduct balance in Treasury	128,677 76
The amount due the school funds, October 1, 1871.....	\$56,490 64

This indebtedness, or deficiency, seems to have had its practical origin in the fiscal year ending September 30, 1867; it then amounted to the sum of \$75,259.71; in 1868 it was reduced to \$60,707.31; and in 1869 it was further reduced to the sum of \$42,970.22, but

during this year the State received the large sum of \$127,679.28 from the United States Government on account of Military Claims. If it had not been for this extraordinary revenue, the deficiency would necessarily have been much greater. In 1870, this deficit again increased, and amounted to \$60,528.34, although there had been received during the year the extraordinary revenue of \$55,000.00 from the Baltimore & Ohio Railroad on account of taxes in arrear. As you have already seen, it slightly decreased during the fiscal year ending September 30, 1871. This brief history will show that practically a debt has existed since 1867, and that each Legislature has transferred its burden and responsibility to its successor. The Constitution requires that "the Legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year." The following is a statement of debts existing at the time of the passage of the last appropriation act:

To the School Fund	\$60,528 34
Penitentiary, for construction	13,500 00
Hospital for the Insane, for construction.....	13,392 94
University, for construction.. ..	7,870 00
Total.....	<u>\$95,291 28</u>

Of this amount a portion was paid during the last year, as follows :

Penitentiary debt	\$13,500 00
To the School Fund.....	4,037 70
	<u>\$17,537 70</u>
Leaving a balance due of.	<u>\$77,753 58</u>

Therefore this debt of \$77,653.58, the accumulation of preceding years, becomes a burden upon the resources of the present year. An increase in taxation, however, will not be necessary to meet it. If you will limit the appropriations for the present to immediate wants, the end will be accomplished. The suggestions of the Auditor that the tax heretofore imposed for the Hospital be levied for the purpose of paying off the indebtedness to the school fund, is well worthy of your consideration. A single tax of twenty-five cents on the hundred dollars for State purposes will be no increase in taxation, and will be a great saving of labor in the Auditor's office, to the assessors and sheriffs.

If the finances are properly regulated and managed during this fiscal year, so as to leave no debts in arrear, hereafter the current expenses of the State can be met and the construction of public buildings carried on without difficulty.

The carefully prepared and elaborate report of the Auditor gives evidence that he has brought both intelligence and zeal to the dis-

charge of his duties. It is full of interest, and I commend it to your careful examination.

The School Fund amounted, September 30, 1871, to \$280,285.44, of which \$275,100 had been invested in bank stock and U. S. bonds. It is a mistake, therefore, to suppose that this money is in the Treasury. Included in this sum are stocks and bonds which are the proceeds of Bank Stock that stood in the name of the Commonwealth of Virginia, and of the Internal Improvement Fund. The provision of the Constitution is as follows: "The Legislature may at any time direct a sale of the stocks owned by the State in banks and other corporations, but the proceeds of such sale shall be applied to the liquidation of the public debt." Under an order made by the Board of the School Fund, in February last, 163 shares or \$16,300 of stock in the First National Bank of Wellsburg belonging to the Internal Improvement Fund, were exchanged for U. S. Bonds, which were then converted into U. S. Bonds payable to said School Board. The constitutionality of this action is at least questionable. The State still holds 188 shares of stock in this Bank, it has gone into liquidation and is winding up its affairs, and some action on your part will be necessary, indicating what disposition is to be made of the dividends thereof. I invite your especial attention to this subject of stocks and bonds standing in the name of the School Board, that it may be clearly ascertained how much thereof properly belongs to the School Fund, and how much is applicable to the liquidation of the public debt.

Our laws on the subject of delinquent lands are intricate, and not well understood by the mass of the people; in fact few lawyers in the State are well versed in them. The lists of these lands returned by the sheriffs are often incorrect; lands have been returned delinquent in cases where the taxes have been paid, and even when redeemed before sale sheriffs have failed to report the fact to the Auditor. These causes have necessarily produced errors in the records of the Auditor's office, and subjected land holders to expense, annoyance and great inconvenience. Were it not that a convention is about to assemble to propose alterations in our Constitution, I would recommend the appointment of a committee or a commission to revise and modify the laws on this subject, and to report their proceedings to the next session of the Legislature. These laws are calculated to deter strangers from purchasing lands among us, and this tends to check immigration. Inasmuch as cases of individual hardship are known to exist, allow me to suggest that you authorize the Auditor, upon proper evidence, to strike out from his record of delinquent lands all tracts on which taxes have been paid; also when it appears that the lands have been redeemed before sale, that he be authorized to enter this fact on record and in either case to charge the sheriff with the amount

for which he has thus improperly obtained credit. If the lands in such cases have been sold to innocent persons, the money should be refunded by the State, the sheriff being the agent of the State in making the sale. If parties injured were to enforce the penalties for these false returns, there would be less danger from them in future.

The act passed March 2, 1870, entitled "an act to provide that sheriffs shall collect all public taxes, except municipal taxes," seems to have produced results, and to be attended with inconveniences, not provided for, or anticipated. The office of township treasurer was wisely abolished, and the evident intention was to impose his duties upon the sheriff. But unfortunately, the act failed to provide in direct terms that the State school fund, distributable among the several townships of a county, should be paid to the sheriff thereof, upon the requisition of the county superintendent of schools. The effect of this omission is that the law does not declare in precise terms, what officer shall be the receiver of the State school fund, when distributed among the several counties of the State. This lapse in the law, was the source of serious embarrassment to the Auditor: if on the one hand, he had refused to pay out the School fund, the schools throughout the State for the present year would have been either interrupted or curtailed in their operations: if on the other hand, he should proceed with the disbursement of the School fund, by paying to the sheriffs the quotas of the townships of their respective counties, his action would be without direct authority of law. The latter alternative, however, was adopted by the Auditor, as the less evil. I invite your immediate attention to this subject, with the hope that you will provide a suitable remedy by appropriate legislation.

Again, when the office of township treasurer was abolished, no remedy seems to have been provided for the collection of fines, for which persons are liable, who fail to work upon the public roads when properly summoned. To enforce the payment of these fines was one of the duties of the township treasurer, and since this office has ceased to exist, no other officer has been intrusted with this duty. Therefore labor on the roads has been practically a voluntary service, and it is a marked example of the conservative and law abiding character of our people, that this service should have been so long performed without compulsion. But our roads are not in good condition, and no means should be spared to improve them. And while our present policy in regard to the public roads continues, this burden imposed upon our citizens should not be a mere voluntary one.

It is of the first importance that the Auditor should exercise some supervision over the collection of taxes. The revenue of the State cannot be protected unless he has the power to remove a collector

when necessary. It was provided in the Code that "the taxes assessed in each county shall be collected by the sheriff thereof, with the following exceptions: The Auditor, with the approval of the Governor, may appoint a collector in any county, when necessary therein." A number of respectable citizens and tax-payers of one of the counties called upon the Auditor to exercise this power, upon the ground that the penalty in the sheriff's bond was not large enough to cover the money coming into his hands, and also because his sureties were alleged to be insufficient. It was claimed by counsel for the sheriff that the act of March 2, 1870, declaring that "in every county the sheriff thereof shall hereafter collect all State, county, township, school, road, and other public taxes, except taxes assessed or levied for municipal purposes," had repealed the provision in the Code authorizing the appointment of a collector, inasmuch as all acts and parts of acts inconsistent therewith were repealed. Certainly there was serious reason to doubt whether this power of appointment in the Auditor existed after March 2, 1870, and as the exercise of doubtful powers in a government like ours is to be greatly deprecated, it was thought best not to appoint a collector in the case referred to, but to lay the matter before the Legislature. The bond of a sheriff in another county, although accepted and approved by the judge of the circuit court for his county, is believed to be defective in its execution. I therefore recommend, either that you re-enact the old provision of the Code, under such limitations as you may deem advisable, or that you give the power to the Auditor to require the sheriffs to give a new bond when he has good cause to believe that the existing one is, for any reason, insufficient, and if the sheriff fail to do so within a reasonable time, then that the Auditor shall have the authority to appoint a collector.

The Legislature, by an act passed February 25, 1871, appropriated \$19,474.68, and placed the same "at the disposal of the Governor for the payment of certain military claims, audited by the Board of Claims, under and by virtue of an act passed March 3, 1869, as exhibited in the report of said Board, dated January 24, 1871." The act making the appropriation contains the proviso "that only such claims as were recognized by the United States government should be paid out of the amount hereby appropriated." Before any disbursement could be made under this appropriation, it became necessary to ascertain whether these claims would be "recognized" by the government of the United States. With this view, in June last, I addressed a communication to the Hon. A. I. Boreman, who is known to be familiar with this subject, and requested him to give me such information as was in his power, bearing on the question. He replied at length, giving a clear statement of

the adjustment of West Virginia military claims, and said: "I know of no law of Congress, general or special, and feel confident there is none, under which any Department at Washington would feel authorized to "recognize" the claims referred to." I subsequently requested the Hon. H. G. Davis to submit these claims to the Treasury Department. The Third Auditor of the Treasury promptly replied "that the claims of West Virginia for expenses incurred on account of her State militia, called out and employed in aiding to suppress the late rebellion, were settled by an act of Congress, approved June 3, 1866, and the Board of Commissioners provided for by said act, have made their report and have been discharged. No new claims can be allowed until provision for payment of same shall have been made by Congress." Owing to the fact that these military claims have not been "recognized" by the government of the United States, none of them have been paid.

The separation of West Virginia from Virginia has raised grave and delicate questions touching the adjustment and payment of the public debt of Virginia existing prior to the separation. Upon the organization of the State of West Virginia, the following provision was inserted in the Constitution: "An equitable proportion of the public debt of the Commonwealth of Virginia prior to the first day of January in the year one thousand eight hundred and sixty-one, shall be assumed by this State; and the Legislature shall ascertain the same as soon as may be practicable, and provide for the liquidation thereof by a sinking fund sufficient to pay the accruing interest and redeem the principal within thirty-four years." Whether this be taken as a compact between the two States or a constitutional duty, the result is the same so far as the people of West Virginia are concerned; it imposes upon them an obligation which cannot be evaded, and at the same time lays down a rule by which to measure the scope, or extent of this obligation. No action looking to a settlement of the question between the two States seems to have been had until February 18, 1870, when Virginia took the initiative by providing for the appointment of commissioners to treat with the authorities of this State. Commissioners appointed on behalf of Virginia proceeded at once to Wheeling, and the Legislature of this State promptly appointed a committee to confer with them, and subsequently by Joint Resolution adopted March 3, 1870, authorized the appointment of three commissioners "to treat with the authorities of the State of Virginia on the subject of the public debt of that State, due, or incurred prior to the first day of January eighteen hundred and sixty-one, and a fair division of the property belonging to the State on that day." Commissioners were, subsequently, appointed, but for reasons which were

communicated to the last Legislature by the Governor, and which were deemed by him sufficient, they did not execute the powers conferred upon them by Joint Resolution adopted February 15, 1870. Thereupon the Legislature again authorized the appointment of a commission to treat with the authorities of Virginia, and also to procure the statistical information, without which it was impossible to ascertain what is the "equitable proportion of the public debt" of Virginia prior to January 1, 1861. In the meantime, however, Virginia thought proper to change her policy as to the mode of settlement between the two States, and by a Joint Resolution adopted February 11, 1871, tendered to this State "an arbitration of all matters touching a full and fair apportionment between said States of the said public debt" by arbitrators not citizens of either of said States, and not subject to the ratification of the legislative departments of said States. When this action of the General Assembly of Virginia was communicated to the Legislature last winter, it respectfully declined to accept the tender of arbitration, on the grounds that any adjustment of this debt ought to be subject to its ratification, and also, that "citizen commissioners would, of necessity, be more familiar with the circumstances attending the creation of said debt, and the many intricate questions connected therewith;" and, at the same time, the Commonwealth of Virginia was invited "to appoint three disinterested citizens as commissioners to treat with like commissioners heretofore authorized on the part of this State." And the commissioners on behalf of this State, in addition to their other powers, were authorized "to adjust, award, and determine upon fair, just and equitable principles, what proportion of said public debt of Virginia should in their opinion be paid by West Virginia, and what part thereof should be paid by Virginia;" subject, however, to ratification by the legislative departments of the two States. In August last three distinguished and disinterested citizens, Gen. J. J. Jackson, Hon. J. M. Bennett and A. W. Campbell, Esq., were appointed commissioners on behalf of this State, and as soon as I was notified of their acceptance of the appointment tendered them, I communicated the fact of their appointment and acceptance to his Excellency, G. C. Walker, Governor of Virginia. In reply, he said that while the Joint Resolution of the General Assembly of Virginia tendering an arbitration does not in direct terms repeal the act of February 18, 1870, yet it "was intended to supersede it, and therefore I do not feel authorized to appoint Commissioners." The correspondence between Governor Walker and myself will be laid before you. These plain statements will show that West Virginia has simply adhered to the plan of adjustment first proposed by Virginia, and that she has promptly and courteously responded to all overtures made on

the part of Virginia. They will also constitute the vindication of the State, from the charge implied in the following language used by Governor Walker in his recent message: "Now if the authorities of West Virginia entertained an earnest desire to make a speedy and final settlement of this matter, why did they not accept our tender of an arbitration?"

In grave questions of this kind, criminations and recriminations do not tend to produce a satisfactory solution. As Governor Walker declined to appoint Commissioners on behalf of Virginia, no course was left to the Commissioners of this State, except by independent action to procure the data from which to ascertain what is the "equitable proportion" of the public debt of Virginia, which West Virginia ought to assume. The able report of the Commissioners happily spares the necessity on my part of a discussion of the issues involved in this matter. It will be laid on your tables in a few days; it is entitled to and will no doubt receive, a candid and earnest examination. "The funded debt of Virginia on the first day of January, 1861, was \$31,778,867.32, after all deductions." All of said debt was expended within the present State of Virginia, with the exception of \$2,659,330.89. The report will show that this debt "represented money borrowed and expended in improving the State by canals, railroads, turnpikes, plank-roads and bridges." "All these expenditures conferred a local and special benefit where expended, not only by the outlay of the money in creating a market, and stimulating enterprise and trade, but in otherwise developing the resources of particular localities to an extent equal to the general benefit to the State at large. It may be assumed then that the public works for which the debt was created are worth what they cost. Virginia by selling, donating, and disposing of these works as her own property, without consulting West Virginia, must be taken to have accepted them on that basis, and is therefore chargeable with them on that basis. When the tables (accompanying the report) are consulted they will show an expenditure of over thirty millions in Virginia, and about two and a half millions in West Virginia." The Commissioners then come to the conclusion that "the *benefits conferred*, and not the territory and population, should be the principal, if not the only basis of an adjustment of the debt." To give at length the arguments adduced to sustain this position, would make this paper too long; to do less than this, would be an act of injustice to the Commissioners, and greatly weaken the force of their arguments. The interest of the people in this question will cause the report to be widely read, and there is less necessity therefore for a full discussion on my part. If an "equitable proportion" of the public debt of Virginia is the limit of the liability of West Virginia, it is difficult to see how she can be

under obligations to pay for improvements that do not confer any benefit upon her. Taking the foregoing basis for a guidance, the Commissioners report that West Virginia's proportion of the debt is something less than one million of dollars. This balance is reached by charging West Virginia with the amount of expenditure for all purposes within her limits, and crediting her with her interest in the public buildings, and other assets named; also with her share in the Literary Fund and Surplus Fund. These calculations have reference to the date of January 1, 1861. It will demand your serious consideration whether you will now proceed to assume what you may conceive to be the "equitable proportion" of the public debt of Virginia prior to January 1, 1861, or whether you will, in the light of past events, await further action on the part of Virginia.

The new Board of Directors of the Hospital for the Insane, appointed under an act passed last winter, entered into office in April last, and at their first meeting elected Dr. T. B. Camden Superintendent, to fill the vacancy occasioned by the resignation of Dr. Hills. Dr. Camden, with his assistants, who were elected at the same time, took charge of the Hospital on the first day of July; and notwithstanding there was an entire change in the officers, with the exception of the assistant physician, there was not the slightest confusion produced thereby. It will not be ungenerous to the former incumbents, and it is due to the present officers, to say that the changes thus effected have produced no detriment to the State. The friends of the patients can feel well assured that the unfortunate inmates of the Hospital are kindly and tenderly cared for.

The report of the Board of Directors exhibits the gratifying fact that since the last session of the Legislature, room for eighty-five additional patients has been provided. This was effected in part by the completion of the centre building, but the result is largely owing to the fact that the Board have utilized some apartments which were not intended for the use of patients. The Hospital contained on the first of July, two hundred and ten patients; and on September 30, two hundred and forty-one. Since that time all lunatics confined in the jails throughout the State, except possibly a few colored people, have been ordered to be brought to the Hospital. You will, therefore, learn with pleasure, that these unhappy people no longer languish in our common jails; and I trust the day is not far distant when suitable accommodations may be provided for the insane colored people. The completion of the buildings is a most desirable object. It is true the expenditures for this purpose have already been very heavy—larger than was anticipated. The original estimate of the architect was that it would cost, complete, \$305,000, while more than \$500,000 have

already been expended on it, and it is not much more than half finished. But it does not avail much to look behind us. The wants of the State will gradually compel its completion. The foregoing exhibit of the finances, however, will readily show that it is not in your power to make the appropriation asked for by the Board. If in your judgment you should deem it prudent to do so, an appropriation might be made to procure the necessary material to be used hereafter in building the first section of the north wing. The lumber used in such a building ought to be laid in at least a year in advance, and thoroughly seasoned. The labor of convicts, both skilled and unskilled, could be used with advantage. And I recommend that the Board of Directors be authorized to employ at least in part, convict labor, under such regulations as you may think just and proper.

The present fences of the Hospital grounds are not only decaying and falling down, but they are not at all in keeping with the building—it is a palace surrounded by dilapidation. Without proper enclosures the curative means of the Hospital are incomplete; it becomes a splendid prison to the unfortunate inmates who are thus denied exercise and the healing influences of open air and sunlight. The request of the Board for an appropriation for fencing or enclosures is therefore a reasonable one.

You will see by the report of the Board that there is an indebtedness contracted by the former Board before the passage of the act appropriating money for the “further construction of the Hospital,” amounting to \$13,392.94. The Attorney General, at the request of the present Board, gave it as his opinion that this debt could not be paid out of the last appropriation. Although this debt was created without authority of law, yet it is due to innocent parties, and ought to be paid.

There are no doubt many patients now confined in the Hospital who have been insane for many years; they are hopelessly incurable. Some of these are quiet, harmless beings, destitute of the light of reason. It may be a grave question whether the present policy of keeping this class of persons in the Hospital should be continued. I invite your attention to this question, with the view to inquiry and investigation rather than to any decided action at present.

The Hospital for the Insane is our noblest charity, and I feel assured that you will readily supply the means to meet its necessities.

An entirely new Board of Directors for the Penitentiary, and also a new Superintendent of the same, were appointed by the Board of Public Works in April last. These officers entered upon the discharge of their duties early in May. The clear and concise report of the Board of Directors, and the accompanying reports of the Superintend-

ent and other officers will be laid before you. From these reports you will obtain full and accurate information of the condition of the Penitentiary since they took charge of it, the progress made in the construction of the wall under their management, and the expenditures made during the fiscal year. It will be seen that the new Board was somewhat embarrassed in their operations from the fact that the retiring Board had exhausted a large proportion of two of the appropriations before May 1. Of the appropriation of \$18,000 for the support of convicts, \$14,455.32 had been drawn and expended by the former Board, leaving only \$3,544.68 subject to the order of the present Board. Of the appropriation of \$8,500 for pay of guards, \$6,930.68 had been drawn and expended by the former Board, leaving but \$1,570.85 to be expended by the present Board. These balances were not sufficient to support and guard the convicts from May 1 to October 1, and the necessity for appropriations to meet the deficiencies is at once apparent. The Legislature at its last session appropriated \$50,000 "for the further construction of the wall around the Penitentiary;" the old Board of Directors drew and expended \$15,294.26, of this appropriation. The largest portion of this sum was consumed in the payment of debts created before the passage of the act making the appropriation, and it is believed that little, if any, of it was used for the construction of the wall.

An examination of the reports of the Auditor, beginning with 1866, will reveal the fact that the State has already expended in the construction of the Penitentiary the sum of \$248,534.96. What amount will yet be required to complete it, I have no means of knowing. The Board estimate that it will require \$70,000 to complete the Warden's building and the wall, and erect the outside walls of the north cell building. There can be little doubt that the building and grounds were projected on a scale much beyond the necessities of the State, and her resources have in consequence been injudiciously taxed. The south cell building, which is nearly complete, contains two hundred and twenty-four cells, while the number of convicts, October 1, 1871, was but one hundred and three. The north cell building, which is intended to be of similar size to the other, if erected would not be needed for the purpose of incarcerating convicts, and could be of use only as work shops. Add to this the fact that the wall and buildings will make an enclosure of about seven and three-fourth acres, and you will have some conception of the size of the building and grounds. No shops worthy of the name have been erected. This is a want severely felt. To require the convicts to labor, is an act of humanity to them, while at the same time they can thus be compelled to contribute to their own maintenance. In some of the States the penitentiaries

are self-supporting, in others they are made to yield a revenue to the State. I earnestly recommend that you will devise some means of utilizing the labor of convicts, so that the cost of maintaining and guarding them may be gradually diminished until our Penitentiary may become self-supporting.

The financial condition of the State will not permit appropriations to the extent asked for by the Board of Directors; but you will doubtless meet the pressing wants of this institution as liberally as you will feel authorized to do so. The Board and officers, from their past management, give strong assurance that they will wisely care for the interests of the State in the future.

The request of the Superintendent that the law be so modified as to give to the Board power to restore to a convict forfeited "good time," when he is repentant, is worthy of your consideration. A list of the pardons granted and the reasons therefor will be communicated to you at an early day.

The Regents of the University report that this "institution holds on its way not only with unabated energy, but with still continued and increasing success. Evidence of this is seen in the large number of students on the rolls of the Faculty; in the special enlargement of the higher classes; in the increasing facilities in the way of apparatus, library, cabinets, and in the whole tone and life of the institution." A school that seeks to rank among the first in letters and science is not the growth of a year or of a decade. In its struggles and efforts it is most sensitive to adverse influences; it demands forbearance towards wants and deficiencies that cannot at once be supplied, and claims a generous appreciation of whatever is excellent in it. It is a cause of gratulation that our University has escaped the ill-starred fate of many similar institutions, and that it is gradually winning its way into public favor.

The finances of the University are not in a very satisfactory condition. There is a debt of \$7,870, incurred more than a year ago on account of constructing the new building, and also a deficit in current expenses, the amount of which does not clearly appear; debts heretofore contracted have been paid off, and thus the vicious practice of anticipating the resources of succeeding years has grown up, and the effect is a debt left outstanding at the close of each year. There is but one safe rule in public as well as private affairs, and that is to keep expenditures within the limits of annual income.

The report of the Board of Regents does not cover the fiscal year, but extends only to the 15th day of June last. Since that time, and within the fiscal year, the Auditor has paid \$10,000—the amount appropriated for endowment purposes—and also \$1,250—the residue of

the appropriation for current expenses. I recommend that you provide the means to meet the estimated deficiency for current expenses, and also to pay off the indebtedness for construction, for which some of the Regents have made themselves individually liable: if you should be of the opinion that the condition of the Treasury will permit, it may be as well to appropriate an amount sufficient to pay off all this indebtedness. Even if our resources were ample, I conceive it would not be good policy to grant the request of the Board for an additional appropriation for permanent endowment. This is nothing more than the imposition of an extraordinary burden upon the present generation, in order to relieve our successors for all time to come. The University is a public institution and there can be no good reason given why its future wants should now be provided for, that would not apply to the Hospital for the Insane, or the Deaf, Dumb and Blind School. The legitimate effect of this policy would be to build up a corporation independent of the control of the Legislature—an end not to be desired.

By law it is made the duty of the Governor to provide a suitable place for the storage of arms belonging to the State. For the want of an appropriation for this purpose, this law could not be executed. I invite your special attention to the recommendation of the Board of Regents for an armory, or arsenal. The corps of cadets, under the very efficient officer detailed by the War Department, can here guard and take care of the public arms with little expense to the State.

The Institution for the Deaf, Dumb and Blind was established under an act passed March 3, 1870. The school was opened the succeeding fall in a commodious building—the gift of citizens of Romney to the State. An appropriation of \$15,000 was made last winter for building purposes. Handsome additions have been made to the original building, but the appropriation was not quite sufficient to finish the work. The Board, however, very properly limited their expenditures to the amount appropriated.

The Board of Regents report “this State charity in a very satisfactory condition.” They ask for appropriations amounting in the aggregate to \$11,000 for the purpose of completing the building, erecting shops, building laundry, bakery, &c., and purchasing the additional furniture required. As a matter of economy it is worthy of your consideration whether you will now provide the means for finishing and furnishing thoroughly all the buildings that will be needed for some years for this institution, or whether you will remit a portion of this expense to your successors. Humanity and good policy alike demand that the pupils in this institution be instructed in some of the useful arts, so that when discharged they may be able to maintain them-

selves, instead of being a charge upon their friends, or, possibly, the public. The report of the Board of Regents, which will be placed in your hands, exhibits their financial transactions during the past year. This Institution has been judiciously and economically managed, and I commend it to your fostering care.

The report of the Adjutant General calls attention to the unorganized condition of the militia, and also to the acts of Congress bearing upon this subject. The militia law of this State has never been put into operation. The assessors are charged with the duty of enrolling the militia, and they have, in many instances, neglected it because no appropriations have been made to pay them. Some young men of Wheeling, actuated by patriotic impulses, have enrolled themselves into volunteer companies and elected their officers, who have applied for their commissions. These commissions could not be issued because the law does not recognize independent volunteer companies, but requires them to be attached to a regiment, and in the absence of any regimental organization, their applications have been suspended. It will be my duty to take the first steps toward effecting an organization, by nominating for appointment all officers above the rank of colonel. Unless this part of our law is to remain a dead letter, I respectfully suggest that you appropriate a sum sufficient to pay the assessors for making the enrollment.

The report of the Kanawha Board exhibits the gratifying results of a large amount of work done on the river during the past season, and the consequent improvement in the navigation, a diminution of the debt, and a larger balance in the Treasury than when they came into office. Salaries and fees have been greatly reduced, and thus the revenue derived from tolls has been devoted to its legitimate purpose—the improvement of the river. Notwithstanding the low stage of water in this, as in other rivers, during the summer and fall, navigation was suspended but a short time in the Kanawha.

The completion of the Chesapeake and Ohio Railroad from the Ohio to Richmond will probably have a marked influence upon the commerce of the Kanawha. The portage from the head of navigation on the Kanawha to the waters of the James River will compare favorably with any in the Union. The probabilities are that the Kanawha River will cease to be simply a local line of trade and travel, and will become an important channel of communication between the west and the east, connected as it is with far reaching lines of water communication.

An earnest effort is making to induce Congress to improve the Ohio river. As West Virginia constitutes in a large degree the water-shed for the waters of the upper Ohio, probably no comprehensive scheme

for a further improvement of the Ohio, as far as the flow of water is concerned, can be matured that will not embrace within it plans for the improvement of the Kanawha, and possibly the Monongahela and the Little Kanawha. This river, therefore, may in time become a most valuable possession to the State in every point of view.

The Cumberland road, under the management of the new Superintendent, has been greatly improved. When he took charge of it, it was much out of repair, but is now in good condition. As soon as it is thoroughly repaired it is the desire of the Board of Public Works to reduce the rates of tolls.

The statute in regard to weights and measures is very much of a dead letter, from the fact that no means have been provided to put it in force. If it is desired that the counties be furnished with standard weights and measures, a small appropriation will be necessary for this purpose.

The Board of Public Works, in obedience to an act passed last winter, appointed a chief engineer and organized a surveying party for the purpose of making a preliminary survey of a railroad line from Charleston to the Pennsylvania line. A survey was accordingly made, beginning at Charleston and extending to a point near Weston. It could not be carried farther from the fact that the appropriation was exhausted; in fact if it had not been for the liberality of the Board of Supervisors of Kanawha county, in contributing \$1000, the survey could not have been carried so far. The line was run in good part through an unsettled country; consequently supplies had to be furnished and transported to the surveying party; this added very materially to the cost of the survey. The report of the engineer is not yet complete; it will probably be laid before you at an early day. This survey has stimulated inquiry as to the resources of the country along its route, and as to the necessity of building a railroad from Charleston to the Pennsylvania line. A company has been organized under the charter granted last winter, and I hope the day is not far distant when the northern and southern parts of the State may thus be more closely united in interest and friendship.

By an act passed February 22, 1871, the Code was so amended as to permit bodies corporate to purchase real estate and hold and sell the same for profit. This was an innovation upon a time-honored policy, and is fraught with dangerous results. It carries with it some of the evils of entailed estates. Our lands are already held in large bodies, and this will tend to aggravate the evil. Its object is speculation in lands, which while it may bring profit to the stock-holders, will tend to retard the growth of the State. Public interests therefore seem to demand its repeal.

The citizens of Charleston have generously provided a convenient and handsome building for the State, as a Capitol, free of cost. It would seem but a fitting appreciation of their liberality to provide for furnishing it in an appropriate manner, and I recommend a small appropriation for this purpose.

I transmit to you a Joint Resolution adopted by the Legislature of Tennessee, in which her Senators are instructed, and her Representatives requested "to use their influence with the United States Government in favor of the establishment, by international co-operation, of a general and systematic plan of Meteorological Observations and Crop Reports." Meteorology is a comparatively new science, and its inductions must be made from a vast number of observations throughout the world. This can only be done by the co-operation of civilized nations. I recommend that you take similar action.

With advancing civilization and the progressive tendencies of the age, a system of free schools has become a part of the policy of all the State governments in the Union. Nearly all the States of Europe have also adopted plans of public instruction. Efforts have been made from time to time to give the general government control of this question, and with the gradual encroachment upon the rights of the States, which has been going on within the last few years, there is cause to fear that these efforts may ultimately be successful. If this scheme is ever accomplished, it will tend more to destroy our identity as a people and the original form of our government than any other one thing could do. We have our cherished notions with respect to religion, morals, family relations and habits of society, which we have received from our fathers, and we cling to them with filial affection. They may not fully accord with the views of other people, but such as they are we love them. Give the education of our children into the hands of strangers, and new modes of thought will soon obliterate the old landmarks in society. Let us therefore preserve our own schools, and regulate and control them in our own way.

The Report of the General Superintendent of Free Schools, by law, is made directly to the Legislature, and I have therefore no official means of knowing the condition of the schools throughout the State. But from general information, I will be justified in saying that they have been as successfully managed during the past year as at any time in their history.

There is an anomaly in the school law, in this, that the taxes are levied by the Board of Education, and the money thus received expended by the trustees. This ought not to be so. The responsibility for the outlay of the money should rest on the parties levying the tax. At present the Board of Education makes the levies, but cannot con-

trol the expenditures. There is a consequent conflict of authority, and local jealousies and strife. Either the office of trustee should be abolished, or the Board of Education empowered to fix salaries of teachers and regulate all other necessary expenses.

One of the obstacles in establishing suitable schools is the want of a sufficient number of competent teachers. For the purpose of educating teachers, the Normal School at Marshall College, and the branches at Fairmont and West Liberty were established. They have become almost a necessary auxiliary of the school system. All of these schools are now in a prosperous condition, and are giving general satisfaction. The school at Fairmont, which was reported last year by my predecessor not to be in a flourishing condition, has had new life imparted to it by its reorganization last summer. I commend them all to your fostering care. The report of the Board of Regents will give more precise information in regard to these Normal Schools.

Under the act of February 28, 1871, the Board of Public Works appointed a Commissioner of Immigration; his report will present to you his proceedings and also his views on this subject. With a very large quantity of unimproved and cheap lands, and surrounded by populous districts, our State presents an inviting field to the immigrant. But the same mode of proceeding cannot be employed here as in the West. We have no homestead laws, or lands to which any such laws are applicable; we have no railroad companies with immense tracts of land for sale on long credit. But we have a number of large landholders who are willing to sell their lands on favorable terms, and if by any means concert of action can be had among them, something of the unity of action of a corporation can be secured. But these landholders cannot consult together, arrange plans and fix prices, and terms of sale. The only way to accomplish these ends, therefore, is to have one common agent—a commissioner or clerk—to whom these landholders can transmit a description of their lands, the titles, prices and terms in a certain prescribed form. Such commissioner will then have the means of furnishing accurate information to persons seeking new homes. There can be no organized system of immigration unless immigrants know in advance with some degree of certainty what kind of lands they may expect to purchase, the prices thereof, and where situated. A commissioner possessed of such information as this, with a knowledge of the peculiar advantages of different localities, and also of the wages of labor in the different branches of industry, will be in a condition to invite immigration.

Mere general statements of the peculiar advantages we have to offer in the way of cheap lands, fine climate and remunerative prices of labor can accomplish little. Many persons would be unable and un-

willing to spend weeks or months, perhaps, in traveling over the State to seek information which might be easily given them under the plan proposed. The act above referred to seemed to contemplate larger schemes of immigration than were possible to be effected by the amount appropriated.

If it be your pleasure to continue the present policy in regard to immigration, I would recommend that the Commissioner of Immigration be charged with the duty of maturing necessary plans and schemes as well as putting them into execution. The responsibilities of any position ought not to be divided, and the members of the Board of Public Works, if their other duties are attended to, have little time to devote to this subject.

The people are contented and prosperous. The attention of capitalists is directed to our large undeveloped resources; we are beginning to feel the inspiring touch of commerce, and are waking into new life as a people under its influence. With one of the leading railroads of the country in successful operation in the northern part of the State, with another in the southern portion that promises a like success already partially opened and soon to be completed, we shall not only have outlets to the markets east and west, but our territory will become the thoroughfare of a full share of the trade and travel of the country.

A review of the social and material condition of the State affords abundant reason for profound gratitude to Almighty God for the many blessings He has bestowed upon us in the past.

In conclusion permit me to express the hope not only that your session will be a harmonious one and will result in good to all public interests, but also that it may be the occasion of pleasant social relations which may ripen into enduring friendship.

JOHN J. JACOB.